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REMARKS

In the present divisional patent application, claims 15 to 25 are maintained.

Claim 15, the sole independent claim under prosecution, has been amended to recite that at least a portion of the domains (containing oriented particles) are formed from fragments having a size in a range from 50 to 100 cm. Antecedent basis is present on the last paragraph on page 8, and more specifically, page 8, line 37.

Claim 16 has been amended to replace "plate-like" with -- in the form of plates--, claim 17 amended to replace "fiber-like" with -- in the form of fibers --, and claim 18 to replace "ribbon-like" with -- in the form of ribbons--. As will be described in the remarks opposite the rejection under 35 USC 112 of these claims, the language is solely editorial without changing the scope of the claims. Claim 19 has been amended to delete "the" in reference to an anisotropic pigment. Claim 22 has been amended to delete a parenthetical expression.

Additionally in the present amendment, reference has been inserted (on page 1 of the patent application) on the status of the parent application Serial No. 09/916,605, namely issuance as U.S. Patent 6,702,967 on March 9, 2004.

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REJECTION UNDER
35 USC 112

Claims 16 to 18 stand rejected under 35 USC 112, second paragraph, due to use of "like" in the wording of "plate-like", "fiber-like", and "ribbon-like". In reply, this wording is considered clear and definite since the terminology means respectively "like a plate", "like a fiber", and "like a ribbon". However, solely to advance prosecution and remove an issue opposite a rejection, the word "like" has been deleted. It is considered this change does not change the scope of the claims. It is reiterated that the previous language and present amendment represent the same limitation concerning the metes and bounds of each claim.

The rejection of claim 19 under 35 USC 112 is no longer applicable due to amendment with antecedent basis no longer required concerning an anisotropic pigment.

The rejection of claim 22 under 35 USC 112 is no longer applicable due to amendment with cancellation of a parenthetic expression. The scope of the claim is not changed.

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REJECTION UNDER 35 USC 103(a)

Claims 15 to 25 stand rejected under 35 USC 103(a) based on WO 98/38244 (WO '244). The Office rejection sets forth in detail the disclosure and teachings of this publication and the applicability to all claims under prosecution.

In reply to this grounds of rejection, claim 15, the sole independent claim under prosecution, has been amended to recite that at least a portion of the required domains (containing oriented particles) are formed from fragments having a size in a range from 50 to 100 cm. All remaining claims represent dependent claims and likewise contain the fragment size limitation.

In contrast, WO '244 sets forth a desirability of grinding to obtain a preferred size no longer than 5 cm in their greatest dimension. The wording present on page 4, lines 18 to 27 of WO '244 is as follows:

In the manufacture of the TFRs, it is desirable to grind the pearlescent flake-containing solidified ribbon to provide TFR particles of reasonably large size, desirably on the order of at least 50 μ m of minimum dimension. There is no limit on the maximum size of such TFRs, except it is preferred that they be no larger than 5 cm in their greatest dimension; their size is also limited by the thickness of the final product which is conventionally made in thicknesses of one-half and three-quarter inches. TFRs in any one final product can be provided in a variety of sizes simply by variable crushing of the cured ribbon.

It is respectfully submitted that one of ordinary skill in the art would not take a preferred size of 5 cm in a greatest dimension and multiply by a factor of 10 to reach the lowermost limit of 50 cm required in a closest comparison in the claims. A maximum difference of 5 cm vs 100 cm of the claims results in a difference by a factor of 20.

In summary, the claims under prosecution have been narrowed such that the use of large fragments is necessary to result in a final decorative surfacing material wherein the use of the fragments results in domains with shading variations along interfaces between adjacent domains.

Although not under consideration in the present divisional patent application, a patentable method is present as evidenced by issuance of U.S. Patent 6,702,967 in a technique to obtain the shading variations along interfaces between adjacent domains. The resulting decorative surfacing material likewise is considered to represent a patentable advance in the

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art. Accordingly, reconsideration and removal is proper of WO '244 opposite the present claims.

In summary, applicants have amended the claims to conform with all requirements under 35 USC 112. Furthermore, the present amendment removes the applicability of WO '244 under the provisions of 35 USC 103.

A notice of allowance is solicited.

Respectfully submitted,



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